

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE
BUTTE FALLS & GRANTS PASS RESOURCE AREAS

**Categorical Exclusion Determination and Decision Record
for Amendment No. 40
O&C Logging Road Right-of-Way Permit No. M-660, OR 048747 FD
CE-OR-115-08-05**

Location:

The proposed action is located in T.35S, R.4W, Section 6 and T.35S, R5W Sections 1, 11 and 12, Medford District, Butte Falls and Grants Pass Resource Areas, Jackson and Josephine Counties, W.M. (see Exhibit C map attached).

Description of Proposed Action Including Purpose of Action:

The proposed federal action is the issuance of an amendment No. 40 to O&C Logging Road Right-of-Way Permit No. M-660, (OR 048747 FD), held by Meriwether Southern Oregon Land and Timber, LLC, under the provisions of 43 CFR Subpart 2812, and P.L. 94-579; 90 Stat 2743. The amendment proposal is to add existing BLM roads (on U.S. lands) and/or BLM rights-of-way over private land for the purposes contained in the permit, which is “management and removal of timber and other forest products”.

The affected roads are located in Jackson and Josephine Counties on BLM lands administered by the Butte Falls and Grants Pass Resource areas and crosses federal land classified as matrix and/or across private lands over which BLM controls the road through a private easement or reciprocal right-of-way agreement. The specific roads to be added are shown on the attached map labeled as Exhibit C – Amendment No. 40 (M-660).

The location of and identification of the specific U.S. roads on U.S. land to be added by amendment and the term of the amendment is identified in the following table:

Town-ship	Range	Section	Subdivision	Road & Segment No.	Length	Period of Time
35S	5W	1	SE4SE4NE4	Por 35-4-8.0D1	0.24	Perpetual
35S	5W	1	S2NE4	35-4-8.0D2	0.56	Perpetual
35S	5W	1	W2NW4, E2	35-4-8.0D3	1.50	Perpetual
35S	5W	11	NE4, NW4SE4, SW4	35-4-8.0F	1.59	Perpetual
35S	5W	11	S2	35-4-8.0G1	0.78	Perpetual
35S	5W	11	E2SE4	Por 35-4-8.0G2	0.34	Perpetual
35S	5W	11	NE4SE4	35-5-11.5	0.11	Perpetual
35S	5W	11	NE4SE4	35-5-11.6	0.05	Perpetual
35S	5W	1	SE4SE4NE4	Por 35-5-1.0A	0.20	Perpetual
35S	5W	1	SE4NW4, NE4SW4	Por 35-5-1.1A	0.20	Perpetual
35S	5W	1	SE4SW4	Por 35-5-1.1C	0.60	Perpetual
35S	5W	1	E2SW4	Por 35-5-1.3B	0.48	Perpetual

The location of and identification of the specific U.S. rights-of-way over private land to be added by amendment and the term of the amendment is identified in the following table:

Town-ship	Range	Sec-tion	Subdivision	Road & Segment No.	Easement No. or Right-of-Way Agreement No. & Recording Info.	Length	Period of Time
35S	4W	6	SW4SW4	35-4-7.2B	M-800	0.11	Perpetual
35S	4W	6	SW4	35-4-8.0C	M-800	0.68	Perpetual

Utilization of the above roads to be added by amendment would not by itself facilitate any ground-disturbing actions on federal lands. The amendment would not be a determining factor as to whether ground-disturbing actions would occur on private lands.

Project Design Features

Prior to use of the roads the Permittee shall file a request for terms and conditions of use and the specific terms and conditions (road rules) will be established at that time.

Plan Conformance Review

This proposal is consistent with policy directed by the following:

- *Final Supplemental Environmental Impact Statement and Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* (Northwest Forest Plan) (FSEIS, 1994 and ROD, 1994);
- *Final-Medford District Proposed Resource Management Plan/Environmental Impact Statement and Record of Decision and Resource Management Plan* (EIS, 1994 and RMP/ROD, 1995);
- *Final Supplemental Environmental Impact Statement: Management of Port-Orford-Cedar in Southwest Oregon* (FSEIS, 2004 and ROD, 2004);
- *Final Supplemental Environmental Impact Statement and Record of Decision and Standards and Guidelines for Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (FSEIS, 2000 and ROD, 2001); and
- *Medford District Integrated Weed Management Plan Environmental Assessment* (1998) and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985).

The proposed action is in conformance with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937 (O&C Act), Federal Land Policy and Management Act of 1976 (FLPMA), the Endangered Species Act (ESA) of 1973, the Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986 and 1996), Clean Air Act, and the Archaeological Resources Protection Act of 1979.

This proposal is consistent with management direction in the Medford District Resource Management Plan that directs the BLM to continue to make BLM-administered lands available for needed rights-of-way where consistent with local comprehensive plans, Oregon state-wide planning goals and rules, and the exclusion and avoidance areas identified in the Resource Management Plan (USDI 1995, p. 82).

Categorical Exclusion Determination

This proposed action qualifies as a categorical exclusion as provided in United States Department of the Interior Departmental Manual 516 DM 11, 11.5.E.(16). This section allows for "issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes."

Before any action described in the list of categorical exclusions may be used, the "extraordinary circumstances," included in 516 DM 2, Appendix 2, must be reviewed for applicability (See attached review). After review, the BLM determined no extraordinary circumstances exist that would cause the proposed action to have a significant environmental effect. The action will not require additional analysis.

Contact Person

For additional information concerning this project, contact Dave Allen, (541) 618-2472.

Prepared by:

Dave Allen
Dave Allen
Medford District, Right-of-Way Specialist

1/10/08
Date

NEPA Compliance:

Jean A. Williams
Jean Williams, Environmental Planner
Butte Falls Resource Area

12/12/07
Date

Mike Mathews
Mike Mathews, Environmental Planner
Grants Pass Resource Area

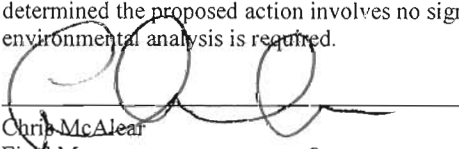
12/14/07
Date

Decision

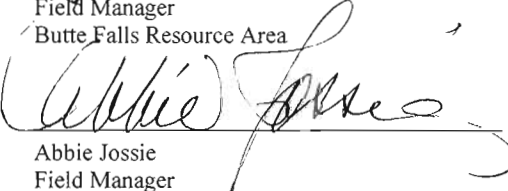
It is my decision to approve amendment No. 40 to O&C Logging Road Right-of-Way Permit No. M-660 (OR 048747 FD) as described in the Proposed Action. The project is planned for implementation in the 1st Quarter of 2008.

Decision Rationale

The proposed action has been reviewed by the Butte Falls and Grants Pass Resource Area staff and appropriate Project Design Features, as specified above, will be incorporated into the proposal. Based on the attached NEPA (National Environmental Policy Act) Categorical Exclusion Review, I have determined the proposed action involves no significant impact to the environment and no further environmental analysis is required.


Chris McAlear
Field Manager
Butte Falls Resource Area

12/12/07
Date


Abbie Jossie
Field Manager
Grants Pass Resource Area

12-14-07
Date

ADMINISTRATIVE REMEDIES

Administrative review of right-of-way decisions requiring National Environmental Policy Act (NEPA) assessment will be available under 43 CFR Part 4 to those who have a "legally cognizable interest" to which there is a substantial likelihood that the action authorized would cause injury, and who have established themselves as a "party to the case." (See 43 CFR § 4.410). The date the Categorical Exclusion Decision is approved by the Authorized Officer, will establish the date initiating a 30 day appeal period.

EFFECTIVE DATE OF DECISION

This is a lands decision on a right-of-way action in accordance with BLM regulations under 43 CFR Part 2812. All BLM decisions under 43 CFR 2812 will become effective on the day after the expiration of the appeal period (30 days after this decision is signed) where no petition for a stay is filed, or 45 days after the expiration of the appeal period where a timely petition for a stay is filed, unless the Director of the Office of Hearings and Appeals or an Appeals Board has determined otherwise in accordance with specified standards enumerated in 43 CFR 4.21 (b).

RIGHT OF APPEAL

This decision may be appealed to the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals (Board) by those who have a "legally cognizable interest" to which there is a substantial likelihood that the action authorized in this decision would cause injury, and who have established themselves as a "party to the case." (See 43 CFR § 4.410). If an appeal is taken, a written notice of appeal must be filed with the BLM officer who made the decision in this office by close of business (4:30 p.m.) not more than 30 days after this decision is approved. Only signed hard copies of a notice of appeal that are delivered to the Medford District Office or Grants Pass Interagency Office will be accepted. Faxed or emailed appeals will not be considered.

In addition to the applicant/proponent for the right-of-way action, anyone who has participated in the National Environmental Policy Act process for this project will qualify as party to the case. (See 43 CFR § 4.410(b)). However, in order to qualify as a "party to the case," you also have the burden of showing

possession of a “legally cognizable interest” that has a substantial likelihood of injury from the decision. (See 43 CFR § 4.410(d).

The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed is in error. The appeal must clearly and concisely state which portion or element of the decision is being appealed and the reasons why the decision is believed to be in error. If your notice of appeal does not include a statement of reasons, such statement must be filed with this office and with the Board within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the Board to stay the implementation of the decision. Should you choose to file one, your stay request should accompany your notice of appeal. You must show standing and present reasons for requesting a stay of the decision. A petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant’s success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

A notice of appeal with petition for stay must be served upon the Board, the Regional Solicitor and Meriwether Southern OR Land and Timber, LLC, and any other adverse party identified by name in the decision at the same time such documents are served on the deciding official at this office. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations. 43 CFR § 4.413(a). At the end of your notice of appeal you must sign a certification that service has been or will be made in accordance with the applicable rules (i.e., 43 CFR §§ 4.410(c) and 4.413) and specify the date and manner of such service.

The IBLA will review any petition for a stay and may grant or deny the stay. If the IBLA takes no action on the stay request within 45 days of the expiration of the time for filing a notice of appeal, you may deem the request for stay as denied, and the BLM decision will remain in full force and effect until IBLA makes a final ruling on the case.

See the attached Form 1842-1 for complete instructions on Filing an Appeal.

CONTACT INFORMATION

For additional information contact Abbie Jossie, Grants Pass Field Manager, 2164 NE Spalding Ave., Grants Pass, OR, 97526; (541) 471-6652, or Christopher McAlear, Butte Falls Field Manager, 3040 Biddle Road, Medford, OR, 97504; (541) 618-2385. Additional contact addresses include:

- U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203
- Regional Solicitor
Pacific Northwest Region, U.S. Department of the Interior
500 N.E. Multnomah Street, Suite 607, Portland, Oregon 97232
- Meriwether So OR Land and Timber, LLC
572 Parsons Drive Suite 124
Medford, OR 97501

Enclosures:
Exhibit C Map
Form 1842-1

NEPA Categorical Exclusion Review (Butte Falls Resource Area)

Proposed Action: The BLM proposes to approve amendment No. 40 to O&C Logging Road Right-of-Way Permit No. M-660 for a Perpetual term under the provisions of 43 CFR 2812.

Department of the Interior Manual 516 DM 2, Appendix 2 provides for a review of the following criteria for categorical exclusion to determine if exceptions apply to the proposed action based on actions which may:

1. *Have significant impacts on public health or safety.*

☐ Yes ☒ No

Initial *QW* Remarks:

2. *Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resource; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.*

☐ Yes ☒ No

Initial *QW* Remarks:

3. *Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].*

☐ Yes ☒ No

Initial *QW* Remarks:

4. *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*

☐ Yes ☒ No

Initial *QW* Remarks:

5. *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*

☐ Yes ☒ No

Initial *QW* Remarks:

6. *Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.*

☐ Yes ☒ No

Initial *QW* Remarks:

7. *Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.*

☐ Yes ☒ No

Initial *QW* Remarks:

8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.

Plants ☐ Yes ☒ No Initial (mw) Remarks:

Animals ☐ Yes ☒ No Initial (SK) Remarks:

Fish ☐ Yes ☒ No Initial (SK) Remarks: PDFs will avoid adverse effects.

9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

☐ Yes ☒ No

Initial (mw) Remarks:

10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

☐ Yes ☒ No

Initial (SK) Remarks:

11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

☐ Yes ☒ No

Initial (mw) Remarks:

12. Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

☐ Yes ☒ No with PDFs

Initial () Remarks:

Reviewers: Butte Falls Resource Area

Name	Title	Date	Initials
Jean Williams	NEPA Coordinator	12/12/07	JW
Marcia Wineteer	Botanist	12/10/07	mw
Linda Hale	Wildlife Biologist	12/10/07	LH
Steve Liebhardt	Fisheries Biologist	12/6/07	SK
Ken Van Etten	Soil	12/7/07	KOV
Shawn Simpson	Hydrology	12/7/07	SS
Trish Lindaman	Visual Resources/Recreation	12/6/07	TL
Leanne Mruzik	Fire/Fuels Specialist	12/7/07	LM
Randy Bryan	Engineering	12/17/07	RRB
John McNeel	Cultural Resources	12/7/07	JCM

NEPA Categorical Exclusion Review (Grants Pass Resource Area)

Proposed Action: The BLM proposes to approve amendment No. 40 to O&C Logging Road Right-of-Way Permit No. M-660 for a Perpetual term under the provisions of 43 CFR 2812.

Department of the Interior Manual 516 DM 2, Appendix 2 provides for a review of the following criteria for categorical exclusion to determine if exceptions apply to the proposed action based on actions which may:

1. *Have significant impacts on public health or safety.*

☐ Yes ☒ No

Initial () Remarks:

2. *Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resource; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.*

☐ Yes ☒ No

Initial () Remarks:

3. *Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].*

☐ Yes ☒ No

Initial () Remarks:

4. *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*

☐ Yes ☒ No

Initial () Remarks:

5. *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*

☐ Yes ☒ No

Initial () Remarks:

6. *Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.*

☐ Yes ☒ No

Initial () Remarks:

7. *Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.*

☐ Yes ☒ No

Initial () Remarks:

8. *Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.*

Plants ☐ Yes ☒ No Initial () Remarks:

Animals ☐ Yes ☒ No Initial () Remarks:

Fish ☐ Yes ☒ No Initial () Remarks:

9. *Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.*

☐ Yes ☒ No

Initial () Remarks:

10. *Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).*

☐ Yes ☒ No

Initial () Remarks:

11. *Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).*

☐ Yes ☒ No

Initial () Remarks:

12. *Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).*

☐ Yes ☒ No

Initial () Remarks:

Reviewers: Grants Pass Resource Area

Name	Title	Date	Initials
Mike Mathews	NEPA Coordinator	12/10/07	mm
Susan Fritts	Botanist	12/7/07	SF
Robin Snider	Wildlife Biologist	12/7/07	RS
Jon Rayborn	Fisheries Biologist	12/4/07	JR
Dave Maurer	Soil	12/10/07	DKM
Mike DeBlasi	Hydrology	12/6/07	MD
Jeanne Klein	Visual Resources/Recreation	12/10/07	JK
Tim Gonzales	Fire/Fuels Specialist	12/10/07	T.G.
Lisa Brennan	Cultural Resources	12/11/07	JB CFT

